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Supreme Court of the United States

OCTOBER TERM, 1963

No. ~~1066~~ 61

RADIO AND TELEVISION BROADCAST TECHNICIANS LOCAL UNION 1264, INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, AFL-CIO, ET AL.,

Petitioners,

versus

BROADCAST SERVICE OF MOBILE, INC.,

Respondent.

BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI.

GEORGE E. STONE, JR.,
P. O. Box 1317,
Mobile, Alabama,
WILLIS C. DARBY, JR.,
P. O. Box 1273,
Mobile, Alabama,
Attorneys for Respondent.

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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1963.

No. 1006.

RADIO AND TELEVISION BROADCAST TECHNICIANS LOCAL UNION 1264, INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, AFL-CIO, ET AL.,

Petitioners,

versus

BROADCAST SERVICE OF MOBILE, INC.,

Respondent.

BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI.

I.

OPINIONS BELOW.

In addition to the opinions specified in the petition, the Circuit Court of Mobile County, Alabama rendered a final judgment on March 6, 1964. which is printed in Appendix A hereof.

II.

QUESTIONS PRESENTED FOR REVIEW.

1. Does a state court have jurisdiction to determine its jurisdiction over an action for an injunction and damages brought by an employer pursuant to an Act of Congress providing that nothing in the National Labor Relations Act shall be deemed to prevent or bar state courts from assuming and asserting jurisdiction over any labor dispute involving any class of employers over whom the National Labor Relations Board has declined to assert jurisdiction?

2. May a state court require a party to follow a uniform rule of pleading requiring the pleading of facts to support a plea in abatement to the jurisdiction of the court where the plea attempts to allege federal preemption?

3. May a state court make a factual determination of whether a particular employer belongs to "any class or category of employers" over which the National Labor Relations Board has declined to assert jurisdiction?

III.

STATUTES INVOLVED.

Labor Management Relations Act of 1947, as amended:

Section 14(c)(1):

The Board, in its discretion, may, by rule of decision or by published rules adopted pursuant to

the Administrative Procedure Act, decline to assert jurisdiction over any labor dispute involving any class or category or employers, where, in the opinion of the Board, the effect of such labor dispute on commerce is not sufficiently substantial to warrant the exercise of its jurisdiction: Provided, That the Board shall not decline to assert jurisdiction over any labor dispute over which it would assert jurisdiction under the standards prevailing upon August 1, 1959.

Section 14(c)(2):

Nothing in this Act shall be deemed to prevent or bar any agency or the courts of any State or Territory (including the Commonwealth of Puerto Rico, Guam, and the Virgin Islands), from assuming and asserting jurisdiction over labor disputes over which the Board declines, pursuant to paragraph (1) of this subsection, to assert jurisdiction.

IV.

STATEMENT OF THE CASE.

A.

The Dispute.

Broadcast Service of Mobile, Inc., respondent, herein called WSIM, purchased certain assets of radio station WAIP prior to August 1, 1962 (R 37, 88). David Fridge, an employee of WAIP, was terminated by WAIP on July 31, 1962 (R 168, 209-10). Fridge executed a release to WAIP for any compensation that might be due Fridge under any contract of employment (R 209-10).

WSIM employed John Hale as its manager (R 103). Hale was in charge of the operations of WSIM (R 119, 130-1, 144, 157, 197, 327, 328, 339). Hale selected the employees of WSIM (R 130-1, 144, 197). Hale determined not to employ Fridge because of Fridge's poor work record at WAIP (R 143, 156, 157).

WSIM commenced broadcasting on August 1, 1962 (R 37, 88, 168).

On August 3, 1962, Fridge and the business agent of Local 1264, International Brotherhood of Electrical Workers, petitioners, herein called Local 1264, informed Hale that Local 1264 had a collective bargaining agreement with WSIM, and that as far as Local 1264 was concerned, Fridge was an employee of WSIM, and that since Fridge was present, Local 1264 was going to let WSIM use him (R 147-8, 282-3, 285). Hale informed Local 1264's representative that he, Hale, did not understand the legal implications concerning Fridge and the alleged contract (R 148, 174).

Thereafter, Local 1264 admitted that it did not have a collective bargaining agreement with WSIM, and requested that WSIM recognize Local 1264 and negotiate a collective bargaining agreement with Local 1264 (R 151, 220). Local 1264 did not at any time claim to represent any employee of WSIM (R 152, 287). Local 1264's avowed intent was to require WSIM to employ Fridge; Local 1264 was unconcerned with the employee Fridge was to replace (R 152-3).

WSIM did not recognize Local 1264 as the collective bargaining representative of WSIM's employees (R 286). WSIM did not employ Fridge (R 143).

On August 10, 1962, Local 1264 commenced picketing WSIM's office (R 37, 38, 89). None of the persons who picketed WSIM was or had ever been an employee of WSIM (R 38, 90). Local 1264 admitted that the picketing and other activity was for the purpose of causing WSIM to employ Fridge and to cause WSIM to sign a collective bargaining agreement with Local 1264, although Local 1264 never claimed to represent any employee of WSIM (R 238, 243, 279, 287).

Local 1264's answer admitted that Local 1264 "since August 10, 1962, has by picketing, letters addressed to persons, firms and corporations and by personal contact sought to effect a boycott of complainant and to cause persons doing business with or desiring to do business with complainant to cease doing business with complainant or to refrain from doing business with complainant" (R 38, 90, 213, 214, 288). A substantial number of persons who had formerly advertised over WSIM ceased advertising over WSIM immediately after a personal visit by a representative of Local 1264 or after the receipt of a boycott letter from Local 1264 (R 312, 313, 320, 342, 343, 344).

B.

The Business of WSIM.

WSIM's gross income is substantially less than $60,000.00 per annum (R 342). For the period of August

1, 1962, through March 31, 1963, WSIM's total sales were approximately $30,000.00 (R 342).

Holt owns stock in and is an officer of four corporations, each of which operates a radio station (R 323-326, 347). The stations are located in Mobile, Alabama; Montgomery, Alabama; McComb, Mississippi; and Hattiesburg, Mississippi (R 324-5). Holt owns one hundred per cent of the stock of Air Enterprizes, Inc., a service organization, which performs accounting services for the four corporations (R 323). Each corporation has its own manager who operates the corporation's radio station (R 110, 118, 130, 131, 144, 157, 296, 297, 304, 327). The manager selects and discharges his own personnel (R 144, 197, 296, 305, 327, 328, 339). The manager sets the wages for his personnel (R 144, 296, 328). The manager determines when his employees will get a vacation or days off (R 296). Wages are not uniform among the several corporations (R 328). Each corporation maintains its own separate set of books in the city where it operates its radio station (R 115, 116, 327). Each corporation maintains a separate payroll, (R 327) files separate federal income and social security tax returns. (R 326, 327) and each files separate reports with the Federal Communications Commission (R 326). Each corporation's funds are kept separately (R 326). Each corporation has a bank account in the city where it operates its radio station and each corporation also has a separate account in Hattiesburg, Mississippi (R 326). Each station manager makes his own purchases and approves his own bills for payment (R 327). Air Enterprizes, Inc., performs accounting and auditing

services for the various corporations (R 338). Each operating corporation pays its proportionate share of the expenses of Air Enterprizes, Inc. (R 328). Some of the stations have national advertising representatives and some have none (R 339). All advertising sold by WSIM was sold in and about Prichard, Alabama (R 346). There has been no national advertising over WSIM (R 346). One of the stations operated by the separate corporations is an affiliate of the American Broadcasting Company; one is an affiliate of the National Broadcasting Company and two have no affiliation (R 346). Holt and Lightsey visit various stations periodically (R 328). They visit some stations more than others (R 328).

The Trial Judge stated of the testimony of the station manager:

> I think what this witness has said is that he runs that station and that is his job and nobody tells him insofar as details are concerned how to run it, and I don't imagine anybody is going to as long as he's doing a good job of making money, but I imagine if you start losing money then somebody is going to get concerned. Is that about what you said?

(R 304) In confirming the Trial Judge's statement the station manager testified:

> MR. GIVENS:
>
> I do the hiring and firing, I don't ask nobody who I hire; who I fire. I do it for the purpose of making money, which I haven't been too successful at for a number of reasons. It's why we are in

business. If I have to call Bob or anybody else—if I had to call even you in town here before I did anything, what would they have me there for? And, if things come up I handle them myself—I mean, that is what I'm there for.

THE COURT:

You are not trying to say that your orders cannot be countermanded?

MR. GIVENS:

No, sir.

THE COURT:

You are just saying that the way things are going now nobody has bothered you. They've told you to run the station.

MR. GIVENS:

Yes, sir.

(R 305)

Each station manager has complete responsibility for the day to day operation of his station (R 304, 305, 327).

V.

ARGUMENT.

A.

The Decision Below is Clearly Correct.

Prior to 1959, this Court in *Garner v. Teamsters Local 776*, 1953, 346 U.S. 485, 98 L. Ed. 228, held that the National Labor Relations Act conferred exclusive jurisdiction on the National Labor Relations Board, with

certain exceptions, over all labor disputes that affected interstate commerce.

The National Labor Relations Board had prior to 1959 declined to assert its full jurisdiction over many employers because of monetary or political reasons. In *Guss v. Utah Labor Relations Board*, 1957, 353 U.S. 1, 1 L. Ed. 2d 601, this Court held that the National Labor Relations Act pre-empted the jurisdiction of state courts over an employer whose operations affected interstate commerce and thus was within the jurisdiction of the National Labor Relations Board even where the operations of the employer were predominantly local and the National Labor Relations Board had declined to exercise its jurisdiction.

The *Guss* case and the National Labor Relations Board created a vast "no man's land". This "no man's land" consisted of the employers over whom the National Labor Relations Board refused to assert jurisdiction and over whom the *Guss* case prevented state courts from asserting jurisdiction. This "no man's land" was enlarged by this Court's decision that state courts had no jurisdiction if the activity in question was "arguably" within the jurisdiction of the National Labor Relations Board. *San Diego Building Trades Council v. Garmon*, April, 1959, 359 U.S. 326, 3 L. Ed. 2d 775.

It was, and is, impracticable for an employer to initially submit his cause to the National Labor Relations Board where there is a doubt as to whether the

National Labor Relations Board will assert jurisdiction as the union is likely to achieve its objective before the National Labor Relations Board acts. *Cf. Lodge No. 12, District No. 37, International Association of Machinists v. Cameron Iron Works Inc.*, 5 Cir., 1958, 257 F.2d 467, cert. deni. 358 U.S. 880, 3 L. Ed. 2d 110 at 257 F.2d 474 where the court held with respect to the National Labor Relations Board:

> . . . the parties should not be forced to . . . be relegated "to the slow and creaking procedure which, like a wounded snake, has dragged its slow length along, sans bargaining, sans labor peace, sans everything but pride of opinion, ill temper and frustration."

Congress, in 1959, subsequent to this Court's pronouncement of its "arguably" test of exclusive jurisdiction in the National Labor Relations Board, established a clear fracture between labor disputes over which the National Labor Relations Board has exclusive jurisdiction and over labor disputes which are subject to state regulation. Congress needed, and in Section 14(c)(1) and 14(c)(2) of the Labor Management Relations Act 1947 as amended 1959, 29 U.S.C.A. 164(c)(1) and (2) provided, a clear and simple test to eliminate the vast "no man's land". Congress amended the Labor Management Relations Act, 1947, 29 U.S.C.A. 164(c)(1) and (2) in 1959 to provide:

> Section 14(c)(1):
> The Board in its discretion, may by rule of decision or by published rules adopted pursuant to

the Administrative Procedure Act, decline to assert jurisdiction over any labor dispute involving any class or category of employers where, in the opinion of the Board, the effect of such labor dispute in commerce is not sufficiently substantial to warrant the exercise of its jurisdiction: Provided, that the Board shall not decline to assert jurisdiction over any labor dispute over which it would assert jurisdiction under the standards prevailing upon August 1, 1959.

Section 14(c)(2):

Nothing in this Act shall be deemed to prevent or bar any agency or the courts of any State or Territory (including the Commonwealth of Puerto Rico, Guam, and the Virgin Islands), from assuming and asserting jurisdiction over labor disputes over which the Board declines, pursuant to paragraph (1) of this subsection, to assert jurisdiction.

The test established by Congress is clear. The state court, in determining its jurisdiction ascertains whether the National Labor Relations Board by "rule of decision" has declined "to assert jurisdiction over *any* labor dispute involving *any* class or *category* of employers" to which the complainant belongs. If so, "*nothing*" in the National Labor Relations Act "shall be deemed to prevent . . . the courts of any State . . . from assuming and asserting jurisdiction."

Here, the Alabama Supreme Court determined that the National Labor Relations Board had by decision declined to assert jurisdiction over radio stations that have annual gross receipts of less than $100,000.00. In

Raritan Valley Broadcasting Company, Inc., 1958, 122 N.L.R.B. 90, 91, 92, the Board held:

> The Board has decided that it will better effectuate the policies of the Act to assert jurisdiction in all future and pending cases involving enterprises engaged in the operation of radio or television broadcasting stations or telephone or telegraph systems which do a gross volume of business of at least $100,000 per annum.
>
> * * * * *
>
> It is the Board's opinion that in the light of its current budgetary limitations and the volume of cases which may be expected under its other standards, the $100,000 gross volume of business standard will extend the Board's jurisdiction over communications systems to the maximum possible extent at this time and will reasonably ensure that the Board will assert jurisdiction over all labor disputes involving such enterprises which tend to exert a pronounced impact on commerce.

The Board has by its decision in *Raritan, supra,* declined to assert jurisdiction over radio stations that have a gross business of less than $100,000.00 per year because $100,000.00 minimum will cover "all labor disputes involving such enterprises which tend to exert a pronounced impact on commerce."

Here, the pleadings and the uncontroverted evidence shows that WSIM's gross volume of business was substantially less than $100,000.00 per annum. Where the National Labor Relations Board has declined "to assert jurisdiction over *any* labor dispute involving *any* class

or category of employers . . . nothing in this Act shall be deemed to prevent or bar . . . the courts of any State . . . from assuming and asserting jurisdiction." 29 U.S.C.A. 164(c)(1) and (2). Where, as here, the National Labor Relations Board has declined to assert jurisdiction over labor disputes involving radio stations with a gross annual business of less than $100,000.00 nothing in the Labor Management Relations Act "shall be deemed to prevent or bar . . . the courts of any State . . . from assuming or asserting jurisdiction." 29 U.S.C.A. 164(c)(1) and (2). Under this unequivocal statute a state court would not be barred even if the National Labor Relations Board would assert jurisdiction over some phase of the labor dispute. *Cf. Smith v. Evening News Association*, 371 U.S. 195, 197-8, 9 L. Ed. 2d 246.

Local 1264's contention that the operations of separate legal entities must be considered by a state court in determining whether a particular employer falls within "any class or category of employers" as used in Section 14(c)(1), if accepted, would open Pandora's box and nullify 14(c)(1) and 14(c)(2). Congress itself defined "employer" in Section 2(2) of the Labor Management Relations Act, 29 U.S.C.A. 152(2):

> The term "employer" includes any person acting as an agent of an employer, directly or indirectly,
>
> . . .

This definition does not peripherally include separate legal entities. It is significant that Congress used the word "employers" in 14(c)(1) and (2) rather than the Board's word "enterprise".

Moreover, the record in this cause adequately established that WSIM is a single employer for jurisdictional purposes under the criteria established by the National Labor Relations Board, particularly as interpreted by the courts of appeal. *Miami Pressmen's Local No. 46 v. National Labor Relations Board,* 1963, D. C. Cir., 322 F.2d 405, 408-9; *J. R. Roy & Sons, Co. v. National Labor Relations Board,* 1958, 1 Cir., 251 F.2d 771, 773-4; *Employing Lithographers of Greater Miami v. National Labor Relations Board,* 1962, 5 Cir., 301 F.2d 20, 28-9; *Goodman's, Inc.,* 101 N.L.R.B. 352.

B.

The Decision Below is Not Final.

WSIM sought an injunction and damages in the state court. The Alabama Supreme Court did not undertake to pass upon the merits of the prayer for a permanent injunction or upon damages; its judgment specifically provided "we have made no attempt to decide the merits of this case". Local 1264 filed an answer that raised numerous issues, none of which have been passed upon by the highest court of the state (R 88-93). Unfettered authority is granted to the trial court to dissolve the temporary injunction upon consideration of the merits.

Assuming, arguendo, that the National Labor Relations Board has exclusive jurisdiction of the action for an injunction, the state courts still have jurisdiction to award damages under 29 U.S.C.A. 187. Another ap-

peal could follow from a decision against Local 1264 on the issue of damages. Piecemeal appeals to the United States Supreme Court are unreasonably burdensome for a small employer. Neither Local 1264, nor the national labor policy will be frustrated by a single appeal in this cause. On March 6, 1964, the trial court, after hearing additional argument, and receiving additional briefs on the merits issued a final decree, making the temporary injunction permanent and awarding $2,580.40 damages to WSIM. (Appendix A.) No appeal from this final order has been filed by petitioners herein.

We submit that *Local No. 438 Construction & General Laborers Union, AFL-CIO v. Curry*, 371 U.S. 542, 9 L.Ed. 2d 514 is not applicable to this cause. Congress by clear and concise language, has attempted to delineate federal and state jurisdiction. Section 14(c) of the Labor Management Relations Act, as amended, is designed to allow a state to apply its own law. *Cf. People of Puerto Rico v. Russell & Company*, 288 U.S. 476, 484, 77 L. Ed. 903, 909-10. The small employer, which Section 14(c) is designed to protect, must be free to pursue his state remedy to a final judgment on the merits without piecemeal appeals to this Court. One appeal to this Court places a financial hardship on the small employer; multiple appeal will increase the cost of litigation beyond his capacity.

C.

There is no Conflict of Decision.

Petitioners assert that the decision below is inconsistent with the decision of the courts of other states. None of the cases cited by petitioners considered the effect of Section 14(c) of the Labor Management Relations Act, as amended. The avowed purpose of this section was to allow the states to act immediately.

Petitioners' main complaint appears directed to a state court determining its own jurisdiction. It is axiomatic that "every court of general jurisdiction has power to determine whether the conditions essential to its exercise exists." *Texas & Pacific Railway Company v. Gulf, Colorado & Sante Fe Railway Company*, 270 U.S. 266, 274, 70 L. Ed. 578, 582.

Petitioners' argument that the Alabama Supreme Court ignored the decision of the National Labor Relations Board is irreconcilable with the fact that the Alabama Supreme Court based its decision on a clear and unequivocal decision of the Board; i.e., *Raritan Valley Broadcasting Co., Inc.*, 122 N.L.R.B. 90. In *Raritan* the Board declined to assert jurisdiction over a radio broadcasting company whose gross annual business was less than $100,000.00 on the sole ground that labor disputes involving employers in Raritan's class did not have a "pronounced impact on commerce." The view adopted by the Alabama Supreme Court is uncomplicated, concise, and exactly what Congress ordered; the state court merely ascertains whether the National Labor Relations Board has by decision declined to assert jurisdiction over any labor dispute involving any

class of employers to which the employer belongs; if the Board has so declined, the state court is free to act.

D.

There is no Important Question of Federal Law.

Petitioners argue that this suit is important to secure the national rights and uniformity of judgments. This argument is primarily based on matters foreign to the record in this cause.

Under our system of courts, juries and administrative agencies, it is not unusual for two fact finding agencies to reach opposite conclusions about the same controversy. In *N.L.R.B. v. Deena Artware, Inc.*, 1952, 6 Cir., 198 F.2d 645, cert. deni. 345 U.S. 906, 97 L. Ed. 1342, the court upheld the finding of the National Labor Relations Board that certain picketing was primary and protected; in a companion case, *United Brick & Clay Workers v. Deena Artware, Inc.*, 1952, 6 Cir., 198 F.2d 637, cert. deni. 344 U.S. 897, 97 L. Ed. 694, rehearing denied 344 U.S. 919, 97 L. Ed. 708 the same court upheld an award of money damages upon a finding that the identical picketing was secondary and actionable under 29 U.S.C.A. 185. In affirming the award of damages the court held at 198 F.2d 642-3:

> Under our existing system of courts, juries, administrative agencies, and appellate review, such findings, even though inconsistent, are not invalid, and one does not destroy the other. The two proceedings, even though arising out of the same labor dispute, were heard by separate fact finding agencies. The witnesses in the two proceedings were

not the same. The cross-examination of some witnesses who testified in both proceedings was not by the same attorneys. Necessarily, the evidence produced in the different proceedings by such testimony was not identical. Each fact finding agency was entitled to make its own decision upon the evidence before it. Though this Court on review recognizes the inconsistency, and may not be in accord with one of the two rulings if it was making the ruling as a matter of original jurisdiction, it does not have the right to set aside such ruling, if, in case of the jury verdict, it is supported by substantial evidence, or, in the case of the Labor Board proceeding, it is supported by substantial evidence on the record considered as a whole. In our opinion, the respective findings are so supported in each of the two proceedings.

The decisions of the National Labor Relations Board are anything but consistent. Compare *Orkin "The Rat Man" Incorporated*, 1955, 112 N.L.R.B. 762 with *Orkin Exterminating Company, Inc.*, 1956, 115 N.L.R.B. 622. In the first *Orkin* case the Board, after an exhaustive analysis of the relationship of the employer involved with twenty-eight other Orkin corporations, declined to combine the operations of all twenty-eight corporations for jurisdictional purposes; in the second *Orkin* case after another exhaustive analysis of the interrelationship of the same Orkin corporations the Board combined all Orkin corporations for jurisdictional purposes. A comparison of *Modern Linen & Laundry Service, Inc.*, 110 N.L.R.B. 1305; *Central Dairy Products Co.*, 114 N.L.R.B. 1189; *Goodman's Inc.*, 101 N.L.R.B. 352; *Clark Concrete Construction Corporation*, 116 N.L.R.B. 321 with

the cases cited on Page 10 of Petitioners' brief, namely, *Perfect T.V., Inc.*, 134 N.L.R.B. 575; *The Family Laundry, Inc.*, 121 N.L.R.B. 1619; *Washwell No. 2, Inc.*, 139 N.L.R.B. 417; *P-M Garages, Inc.*, 139 N.L.R.B. 987; *Corfu Mfg. Co.*, 3-RC-2523 (June 28, 1961), 48 L.R.R.M. 1584, shows that where the National Labor Relations Board purports to apply the same criteria its cases are irreconcilable on the facts reported in the Board's decisions. The decisions of the National Labor Relations Board, irreconcilable on the facts, show that the "arguably" test announced in *San Diego Building Trades Council v. Garmon*, April, 1959, 359 U.S. 236, 3 L. Ed. 2d 775 should not be applied in determining the jurisdiction of a state court under Section 14(c) of the Labor Management Relations Act, as amended.

No "serious problems" of conflict between state courts and the National Labor Relations Board will arise from state courts following the decision of the National Labor Relations Board asserting or declining jurisdiction over particular classes of employers. *Cf. Smith v. Evening News Association*, 371 U.S. 195, 197-8, 9 L. Ed. 2d 246, 249. Certainly no "serious problems" of conflict exist here.

VI.

CONCLUSION.

The granting of the petition for writ of certiorari will entail a piecemeal appeal and will cause extraordinary and unnecessary expense to all. If the Court determines that any issue raised in this cause is of sufficient importance for decision by this Court, we re-

spectfully suggest that the Court should review the cause after a final decision by the Alabama Supreme Court on the merits.

The petition for certiorari should be denied.

Respectfully submitted,

GEORGE E. STONE, JR.,
P. O. Box 1317,
Mobile, Alabama,

WILLIS C. DARBY, JR.,
P. O. Box 1273,
Mobile, Alabama,
Attorneys for Respondent.

CERTIFICATE OF SERVICE.

I, Willis C. Darby, Jr., hereby certify that I have mailed a copy of the foregoing Brief in Opposition to Petition for Writ of Certiorari, properly addressed to J. R. Goldthwaite, Jr., 1431 Candler Building, Atlanta, Georgia 30303 and to Pierre Pelham, First National Bank Building Annex, Mobile, Alabama, counsel for Petitioners, by depositing the same in a United States Post Office or mail box, with first class postage prepaid.

This the .... day of May, 1964.

WILLIS C. DARBY, JR.,
Attorney for Respondent.

APPENDIX A.

IN THE CIRCUIT COURT OF MOBILE COUNTY, ALABAMA, IN EQUITY.

No. 58,568-H.

BROADCAST SERVICE OF MOBILE, INC.,
Complainant,

versus

LOCAL 1264, INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, and WILLIAM RAYBURN, DAVID FRIDGE and H. D. SMITH,
Respondents.

FINAL DECREE.

This cause being regularly set down for hearing and being submitted for decree on the pleadings and testimony as heard in open court and the court having duly considered the same, and upon consideration thereof, it is

ORDERED, ADJUDGED and DECREED by the court that the complainant recover actual damages in the sum of TWO THOUSAND FIVE HUNDRED EIGHTY AND 40/100ths ($2,580.40) DOLLARS from the respondents for which let execution issue.

IT IS FURTHER ORDERED, ADJUDGED and DECREED that the temporary injunction heretofore issued by this court be, and the same hereby is made permanent.

DATED March 6, 1964.

(S.) Joseph M. Hocklander,
JUDGE.